

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7558

BILL NUMBER: HB 1825

NOTE PREPARED: Feb 23, 2005

BILL AMENDED: Feb 22, 2005

SUBJECT: Human and Sexual Trafficking; Matchmaking.

FIRST AUTHOR: Rep. Austin

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

(A) It provides that a person who knowingly or intentionally recruits, harbors, or transports another person to engage the other person in forced labor or involuntary servitude, or to force the other person into marriage, commits promotion of human trafficking, a Class B felony.

(B) It provides that certain individuals who knowingly or intentionally sell or transfer custody of a child under 18 years of age for the purpose of prostitution commits sexual trafficking of a minor, a Class A felony.

(C) It provides that a person who knowingly or intentionally pays for an individual who is forced into forced labor, involuntary servitude, marriage, or prostitution commits human trafficking, a Class B felony.

(D) It adds human and sexual trafficking crimes to the list of crimes that:

- (1) invoke certain procedures for evidence concerning protected persons;
- (2) can be a crime of domestic violence;
- (3) can be murder if a person is killed during the commission of the crime; and
- (4) can be a "racketeering activity".

(E) It requires an international matchmaking organization to notify a recruit that the recruit is entitled to a criminal history information and a marital history declaration of a resident under certain situations and makes a violation a Class C misdemeanor.

(F) It makes intimidation a Class D felony instead of a Class A misdemeanor if the person to whom the threat is communicated is an employee of a court or probation department.

Effective Date: July 1, 2005.

Explanation of State Expenditures: (Revised) There are no data available to indicate how many offenders may be convicted of promotion of human trafficking, a Class B felony; sexual trafficking of a child, a Class A felony, or human trafficking, a Class B felony. If a person knowingly or intentionally kills another person while committing a human and sexual trafficking crime, the offense would be murder, a felony. Additionally, under certain circumstances, a person involved in racketeering activity may commit corrupt business influence, a Class C felony. The bill also creates a Class C misdemeanor for not notifying noncitizens recruited by international matchmaking organizations concerning criminal history information and marital history declarations required under the bill. The bill makes intimidation a Class D felony instead of a Class A misdemeanor if the person to whom the threat is communicated is an employee of a court or probation department.

Depending upon mitigating and aggravating circumstances, a Class A felony is punishable by a prison term ranging from 20 to 50 years, a Class B felony is punishable by a prison term ranging from 6 to 20 years, and a Class C felony is punishable by a prison term ranging from 2 to 8 years. A Class D felony is punishable by a prison term ranging between six months to three years or reduction to Class A misdemeanor. Murder is punishable by a fixed prison term of 55 years, with not more than 10 years added or subtracted for aggravating or mitigating circumstances. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

The average expenditure to house an adult offender was \$21,514 in FY 2004, ranging from a low of \$16,645 to a high of \$49,281. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$59,574, with the costs ranging from a low of \$52,420 to a high of \$77,674. The average length of stay in DOC facilities for all Class A felony offenders is approximately 9.1 years. It is approximately 3.7 years for a Class B felony, approximately 2 years for a Class C felony, and approximately ten months for a Class D felony.

Explanation of State Revenues: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A, B, C, and D felony, and murder is \$10,000. The maximum fine for a Class C misdemeanor is \$500. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

A crime involving domestic violence is subject to a Domestic Violence Prevention and Treatment Fee of \$50, which is deposited into the State User Fee Fund.

The bill makes intimidation a Class D felony instead of a Class A misdemeanor if the person to whom the threat is communicated is an employee of a court or probation department. More revenue to the Common School Fund

could be collected if a larger criminal fine is assessed by the sentencing court. However, any increase in revenue is likely to be small. The maximum fine for a Class A misdemeanor is \$5,000, while the maximum fine for a Class D felony is \$10,000. Court fees for both misdemeanors and felonies are the same.

Explanation of Local Expenditures: Court procedures for protected persons and murder may vary from “typical” cases, resulting in increased use of court and prosecutor time and resources. However, the additional cost associated with these procedures will depend on the actions of the court and court caseload.

County or regional domestic violence fatality review boards may convene if the person who commits the act of domestic violence is charged with a criminal offense that results in final judgment; or is deceased. There are no data available to indicate how often such a review may be needed to investigate human trafficking fatalities.

A Class C misdemeanor is punishable by up to 60 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

The bill makes intimidation a Class D felony instead of a Class A misdemeanor if the person to whom the threat is communicated is an employee of a court or probation department. If an offender is sentenced to state prison rather than to a county jail, the costs to the county may be reduced. However, any cost reduction is likely to be small. The maximum term of imprisonment for a Class A misdemeanor is up to one year.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members. However, the amounts would likely be small.

The bill makes intimidation a Class D felony instead of a Class A misdemeanor if the person to whom the threat is communicated is an employee of a court or probation department. Court fees for both misdemeanors and felonies are the same.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs’ Association, Department of Correction.

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